

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEA BLACK,

Plaintiff,

v.

PRIDE MOBILITY PRODUCTS
CORPORATION, a foreign corporation;
and UNITED SEATING AND MOBILITY,
L.L.C., a foreign corporation, d/b/a
NUMOTION, a foreign corporation;
CAPSTONE MOBILITY GROUP, LLC, a
foreign corporation; MERITS HEALTH
PRODUCTS CO., LTD; MERITS
HEALTH PRODUCTS, INC.; JOHN DOE
COMPANY 1; JOHN DOE COMPANY 2;
JOHN DOE COMPANY 3,
Defendants.

No. 2:15-cv-02008-TSZ

THIRD AMENDED COMPLAINT FOR
PERSONAL INJURIES AND
DAMAGES

I. PARTIES & JURISDICTION

1.1. Plaintiff Lea Black is a resident of King County, Washington.

1.2. Defendant Pride Mobility Products Corporation (“Pride”) is a foreign corporation headquartered in Pennsylvania and doing business in King County in the State of

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FOR PERSONAL INJURIES
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Phone (206) 622-8000 • Fax (206) 682-2305

1 Washington. Pride designed and manufactured the Pride Pursuit mobility scooter that is the
2 subject of this lawsuit.

3 1.3. Defendant United Seating and Mobility, LLC, doing business as Numotion,
4 (“Numotion”) is the successor to ATG Rehab, Inc., which sold the Pride Pursuit Mobility
5 Scooter to Lea Black and later serviced it by installing a new motor and transaxle assembly.
6 Numotion is a foreign limited liability company headquartered in Missouri and doing
7 business in King County in the State of Washington.
8

9 1.4. Defendant Capstone Mobility Group, LLC is a company headquartered in
10 Connecticut.

11 1.5. Defendant Merits Health Products Co., Ltd. is a foreign company headquartered in
12 Taiwan.

13 1.6. Defendant Merits Health Products, Inc. is a corporation headquartered in the state of
14 Florida.
15

16 1.7. Defendant John Doe Company 1 is the unknown manufacturer of the mechanical
17 coupler that failed forming one basis of this litigation. If such a company is ever identified
18 this Complaint may be amended to include its name.

19 1.8. Defendant John Doe Company 2 is the unknown rebuilder of the drive assembly that
20 failed forming one basis for this litigation. If such a company is ever identified this
21 Complaint will be amended to include its name.
22

23 1.9. Defendant John Doe Company 3 is the unknown manufacturer or seller of an
24 unknown component that failed forming one basis for this litigation. If such a company is
25 ever identified this Complaint will be amended to include its name.
26

II. STATEMENT OF FACTS

2.1. On February 18, 2015, Plaintiff Lea Black was riding her Pride Pursuit four-wheeled electric mobility scooter on the sidewalk near her assisted living home on Minor Avenue in Seattle, Washington, when she felt the scooter move in an abnormal way. She immediately stopped the scooter, but the scooter entered a “freewheel” condition and began coasting down the sidewalk on Minor Street towards Pike Street. The scooter continued to accelerate, then entered the intersection at high speed and crashed into a passing car. Ms. Black, who attempted to slow the scooter by dragging her foot, was seriously injured in the crash, losing several toes, breaking approximately 20 bones, puncturing a lung, and suffering other injuries. She was forced to leave her assisted living apartment complex, has undergone months of surgeries and hospitalization, and will require additional surgeries, care, and therapy in the foreseeable future.

2.2. The Pride Pursuit mobility scooter entered the dangerous “freewheel” condition when a plastic socket connection between the motor/brakes and the transaxle failed.

2.3. The Pride Pursuit mobility scooter, as sold to Lea Black, has no manual or emergency brake. Instead, the Pride Pursuit mobility scooter was equipped with a two-part automatic brake system that engages when the accelerator lever is released. The two-part automatic braking system is composed of both a “regenerative” brake, which uses the motor to slow the vehicle, and a disk brake, which stops the vehicle once it has slowed sufficiently. Both brake systems are contained within the motor assembly and are connected to the axle and rear wheels by means of a pinion gear in the transaxle. The steel pinion gear connects to the motor/brake assembly through a plastic socket. If this connection between the motor/brake

assembly and transaxle fails, as it did here, the Pride Pursuit mobility scooter, as equipped, will be in a “freewheel” condition, will have no operable brake system, and will be unreasonably and inherently dangerous, especially on a hill or ramp.

2.4. According to information obtained by Plaintiff, Pride’s subsidiary in the United Kingdom sold a nearly identical scooter under the name Colt XL8. A Colt XL8 is shown here next to a Pride Pursuit mobility scooter. The only obvious difference between the two machines appears to be the thickness of the seat bottom.



2.5. Pride’s subsidiary in the United Kingdom was aware of the potential for failure of the Colt XL8’s transaxle, which could lead to a dangerous freewheel condition. In 2010, Pride’s subsidiary in the United Kingdom warned UK distributors of this condition, which it

1 admitted could result in serious injury or death. That warning and recall notice is attached
2 here.



7
8 32 Wedgwood Road
9 Bicester
Oxfordshire
10 OX26 4UL

11 **Correction for model SC713INT with 12km/h transaxle**
Replacement of Transaxle assembly
All units manufactured from July 25th, 2009 to March 29th, 2010

12 September 2010

13 **Urgent Field Safety Notice**
Pride Colt XL8 scooter

14 Dear Dealer:

15 This letter is to inform you of a product safety correction on the on the SC713INT units manufactured from
16 July 25th, 2009 to March 29th, 2010.

17 After evaluation of this unit Pride has found that there is a potential for the pinion gear inside the transaxle
18 to become damaged during aggressive use of the product. If the pinion gear becomes damaged the unit
will produce a pronounced rhymed vibration when driven. It will be clear to the operator that something is
wrong with the unit. If the user continues to drive the unit aggressively, the damaged pinion gear could
break which would create a freewheel condition.

19 Pride has received consumer complaints on this issue. We acknowledge the remote potential that such a
malfunction in the product can occur and could lead to serious personal injury and/or death.

20
21 2.6. Inspection of Lea Black's Pride Pursuit mobility scooter reveals that the machine
22 failed at the coupling between the pinion gear and the motor/brake assembly.

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2.7. According to the Owner's Manual, Pride's Colt XL8 was equipped with an emergency hand brake in addition to the automatic regenerative and disk brake. See insert below. (Emphasis added.)

BRAKING INFORMATION

Your scooter is equipped with these powerful brake systems:

- Regenerative: Uses electricity to rapidly slow the vehicle when the throttle control lever returns to the centre/stop position.
- Disc Park Brake: Activates mechanically after regenerative braking slows the vehicle to near stop or when power is removed from the system for any reason.
- Handbrake: This lever provides you with emergency stopping power. See III. "Your Scooter."

12

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Colt XL8

2.8. Ms. Black's unit, although almost identical to the Colt XL8, had no such emergency brake. See insert.

BRAKING INFORMATION

Your scooter is equipped with these powerful brake systems:

- Regenerative: Uses electricity to rapidly slow the vehicle when the throttle control lever returns to the center/stop position.
- Disc Park Brake: Activates mechanically after regenerative braking slows the vehicle to near stop, or when power is removed from the system for any reason.

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Pursuit

2.9. A functional emergency brake system connected directly to the axle or to the wheels would have allowed Ms. Black to stop the scooter and avoid injury.

1 2.10. Plaintiff is unaware of any recall of the Pride Pursuit mobility scooter in the United
2 States. Indeed, the motor and transaxle on Lea Black's Pride Pursuit mobility scooter was
3 changed in August 2014 after a failure of the original unit.

4 **III. LIABILITY**

5 3.1. The Pride Pursuit mobility scooter, as designed and manufactured by Pride, is
6 defective in both design and construction. The freewheel condition and brake failure
7 experienced by Lea Black and the lack of any sort of positively controlled emergency brake
8 make the scooter unsafe to an extent beyond that contemplated by an ordinary user or
9 consumer. *See, e.g.*, RCW 7.72.030(1)(a), (2), (3).

10 3.2. Pride is also liable because adequate warnings and instructions were not provided
11 with the subject vehicle or provided after its manufacture, rendering the subject vehicle
12 unsafe to an extent beyond that contemplated by an ordinary user and consumer, for example,
13 as set forth in RCW 7.72.030(1)(b), (c); RCW 7.72.030(3).

14 3.3. Pride's acts and omissions were negligent and willful and wanton, and Pride is liable
15 based upon theories of product liability, including but not limited to negligence and strict
16 product liability. *See, e.g.*, RCW 7.72, *et seq.*

17 3.4. Numotion, while doing business as ATG Rehab, Inc., sold the Pride Pursuit mobility
18 scooter to Lea Black and later serviced it by replacing the motor and transaxle. Numotion is
19 liable to Lea Black for replacing a defective motor and transaxle with a similarly defective
20 motor and transaxle and for failing to notify Ms. Black of the defective and dangerous
21 condition of the motor and transaxle.
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1 3.5. Numotion's acts and omissions were negligent and willful and wanton, and Numotion
2 is liable for all damages resulting therein.

3 3.6. Upon information and belief, Defendant Capstone Mobility Group LLC was involved
4 in the selection and distribution of the Pride Pursuit scooter for and to Lea Black and
5 communicated with both Ms. Black and Numotion about scooter selection and the hills near
6 Ms. Black's home in Seattle prior to delivery of the scooter. Upon information and belief
7 Capstone Mobility Group LLC knew about the hilly environment in Ms. Black's
8 neighborhood, and was negligent, along with Numotion, in selecting and distributing a
9 scooter to Ms. Black that was inappropriate for use in Ms. Black's Seattle neighborhood.
10

11 3.7. Upon information and belief, Defendant Merits Health Products Co., Ltd.
12 manufactured the drive assembly of the Pride Pursuit, which was defective in both design
13 and manufacture and unsafe to an extent beyond that contemplated by an ordinary user or
14 consumer. *See, e.g.,* RCW 7.72.030(1)(a), (2), (3).
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16 3.8. Merits Health Products, Co., Ltd is also liable because adequate warnings and
17 instructions were not provided with the subject drive assembly or provided after its
18 manufacture, rendering the subject vehicle unsafe to an extent beyond that contemplated by
19 an ordinary user and consumer, for example, as set forth in RCW 7.72.030(1)(b), (c); RCW
20 7.72.030(3).
21

22 3.9. The acts and omissions of Merits Health Products, Co., Ltd. were negligent and
23 willful and wanton, and Merits Health Products, Co., Ltd. may be liable based upon theories
24 of product liability, including but not limited to negligence and strict product liability. *See,*
25 *e.g.,* RCW 7.72, *et seq.*
26

1 3.10. Upon information and belief Merits Health Products, Inc. is a United States
2 subsidiary of Merits Health Products Co., Ltd. and a distributor of the drive assembly and
3 related parts in the United States and may be liable to Lea Black under various provisions of
4 RCW 7.72.040.

5 3.11. The acts and omissions of Merits Health Products, Inc., were negligent and willful
6 and wanton, and Merits Health Products, Inc., may be liable based upon theories of product
7 liability, including but not limited to negligence and strict product liability. *See, e.g.,* RCW
8 7.72, *et seq.*

9 3.12. Defendant John Doe Company 1 is the manufacturer of the mechanical coupler that
10 failed, which was defective in both design and manufacture and unsafe to an extent beyond
11 that contemplated by an ordinary user or consumer. *See, e.g.,* RCW 7.72.030(1)(a), (2), (3).

12 3.13. The acts and omissions of John Doe Company 1 were negligent and willful and
13 wanton, and John Doe Company 1 may be liable based upon theories of product liability,
14 including but not limited to negligence and strict product liability. *See, e.g.,* RCW 7.72, *et*
15 *seq.*

16 3.14. Defendant John Doe Company 2 is a motor rebuilding company who may have
17 rebuilt the drive assembly installed in Lea Black's scooter in approximately August 2014,
18 which was defective in both design and manufacture and unsafe to an extent beyond that
19 contemplated by an ordinary user or consumer. *See, e.g.,* RCW 7.72.030(1)(a), (2), (3).

20 3.15. The acts and omissions of John Doe Company 2 were negligent and willful and
21 wanton, and John Doe Company 2 may be liable based upon theories of product liability,
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1 including but not limited to negligence and strict product liability. *See, e.g.,* RCW 7.72, *et*
 2 *seq.*

3 3.16. Defendant John Doe Company 3 is the manufacturer of an unknown component that
 4 failed, which was defective in both design and manufacture and unsafe to an extent beyond
 5 that contemplated by an ordinary user or consumer. *See, e.g.,* RCW 7.72.030(1)(a), (2), (3).

6 3.17. The acts and omissions of John Doe Company 3 were negligent and willful and
 7 wanton, and John Doe Company 3 may be liable based upon theories of product liability,
 8 including but not limited to negligence and strict product liability. *See, e.g.,* RCW 7.72, *et*
 9 *seq.*

11 IV. DAMAGES

12 4.1. As a proximate cause of the tortious acts and omissions of Pride, Lea Black suffered
 13 injuries including but not limited to broken bones, loss of appendages, trauma, loss of her
 14 living situation, loss of mobility and other injuries resulting in past and future pain and
 15 suffering, both physical and mental, and other general damages, together with past and future
 16 medical and related expenses, punitive damages if available, and other special damages to be
 17 proved at the time of trial.

19 V. PRAYER FOR RELIEF

20 5.1. WHEREFORE, Plaintiff prays for judgment against defendants for the items of
 21 damages set forth herein, and for costs and disbursements in this action.

22 DATED this 31st day of January, 2017.

24 By: s/Sims Weymuller
 25 SIMS WEYMULLER, WSBA #33026
 By: s/Peter O'Neil

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CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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